

Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.

UNITED STATES TAX COURT  
WASHINGTON, D.C. 20217

JAMES COPPEDGE,

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

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Docket No. 18727-11 L

O R D E R

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit herewith to petitioner and to respondent a copy of the pages of the transcript of the trial of the above case before Special Trial Judge Lewis R. Carluzzo at Philadelphia, Pennsylvania, on March 14, 2012, containing his oral findings of fact and opinion rendered at the conclusion of trial.

In accordance with the oral findings of fact and opinion, decision will be entered for respondent.

(Signed) Lewis R. Carluzzo  
Special Trial Judge

Dated: Washington, D.C.  
March 27, 2012

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1 Bench Opinion by Special Trial Judge Lewis R. Carluzzo  
2 Coppedge v. Commissioner Docket No. 18727-11L  
3 March 14, 2012

4 THE COURT: The Court has decided to render  
5 oral findings of fact and opinion in this case, and  
6 the following represents the Court's oral findings of  
7 fact and opinion (bench opinion).

8 Unless otherwise indicated, section  
9 references contained in this bench opinion are to the  
10 Internal Revenue Code of 1986, as amended, in effect  
11 for the relevant period. Rule references are to the  
12 Tax Court Rules of Practice and Procedure.

13 This section 6330(d) proceeding has been  
14 assigned in accordance with section 7443A(b)(4) and  
15 Rule 182. This bench opinion is made pursuant to the  
16 authority granted by section 7459(b) and Rule 152.  
17 Except as provided in Rule 152(c) this bench opinion  
18 shall not be relied upon as precedent.

19 Kristina L. Rico appeared on behalf of  
20 respondent. Petitioner lived in Delaware at the time  
21 the petition was filed. He is self-represented in  
22 this case and did not appear at trial.

23 On June 9, 2010, respondent received from  
24 petitioner a Form 1040, U.S. Individual Income Tax  
25 Return, that purports to be petitioner's 2008 Federal

1 income tax return (return). On the return petitioner  
2 (1) reports \$315,649.88 as his "taxable income", (2)  
3 reports no 2008 Federal income tax liability, and (3)  
4 claims a refund for the amount shown as his taxable  
5 income. In the middle of the first page of the return  
6 are the words "Accepted for Value Returned for Value  
7 Settlement and Discharged", twice appear by stamp.  
8 Under one of the stamped versions of this language,  
9 petitioner's signature appears as "authorized  
10 representative". The return is signed by petitioner  
11 in the designated area on page two. In the area  
12 designated "Your Occupation" petitioner entered  
13 "Authorized representative of James Coppedge".

14 The return obviously "contains information  
15 that on its face indicates that the self-assessment is  
16 substantially incorrect". Section 6702(a)(1)(A).  
17 Furthermore, the stamps shown on the first page of the  
18 return, and petitioner's attempt to have the amount  
19 shown as taxable income refunded to him reflect  
20 petitioner's "desire to delay or impede the  
21 administration of Federal tax laws". Section  
22 6702(a)(2)(B). Consequently, and in due course, the  
23 submission of the return resulted in the assessment of  
24 a \$5,000 section 6702(a) penalty (underlying  
25 liability) against petitioner for 2008.

1           In a letter dated February 7, 2011,  
2     petitioner was advised that respondent intended to  
3     levy (proposed collection action) in order to collect  
4     the underlying liability. That letter also advised  
5     petitioner of his right to request an administrative  
6     hearing in order to challenge the proposed collection  
7     action, which he did.

8           Petitioner did not suggest a collection  
9     alternative to the proposed collection action during  
10    the administrative hearing. Instead he challenged the  
11    existence of the underlying liability claiming that  
12    the liability had been satisfied. His claim in that  
13    regard, stated in convoluted if not nonsensical terms,  
14    has no merit as it is clear that the underlying  
15    liability has never been paid. See section 6311;  
16    section 301.6311-1, Proced. & Admin. Regs.

17           In a Notice of Determination Concerning  
18    Collection Action(s) Under Section 6320 and/or 6330,  
19    dated July 20, 2011 (notice), respondent determined  
20    that the proposed collection action is appropriate.  
21    The language appearing in the petition filed in  
22    response to the notice is so syntactically obscure  
23    that but for the fact that the language is contained  
24    in a document submitted to the Court by an individual  
25    who apparently believes himself not subject to Federal

1 tax laws, the Court would have serious reservations  
2 about petitioner's competency to proceed as a  
3 self-represented litigant in this proceeding. Be that  
4 as it may, a fair reading of the petition, to the  
5 extent that we can make any sense from its contents,  
6 shows that petitioner challenges the determination  
7 made in the notice only because he is challenging the  
8 existence of the underlying liability, once again  
9 claiming that the liability has been satisfied.

10 Our jurisdiction in this matter is  
11 established in section 6330(d).

12 The issue before the Court is whether  
13 petitioner is liable for the underlying liability, and  
14 we consider, de novo, the extent to which he is. See  
15 Lunsford v. Commissioner, 117 T.C. 183, 185 (2001);  
16 Callahan v. Commissioner, 130 T.C. 44, 49 (2008);  
17 Blaga v. Commissioner, T.C. Memo. 2010-170.

18 As previously noted, petitioner did not  
19 propose a collection alternative to the collection  
20 action at the administrative hearing, and he does not  
21 do so here. Actually, because petitioner did not  
22 request a collection alternative at the administrative  
23 hearing, he is not entitled to do so here. See  
24 Giamelli v. Commissioner, 129 T.C. 107, 113 (2007).

25 All things considered, there is little for

1       us to do in this matter. Petitioner does not suggest  
2       that the underlying liability was improperly assessed,  
3       or that the return is not a frivolous return within  
4       the meaning of section 6702(a); instead, he claims the  
5       liability has been satisfied for reasons only  
6       meaningful to him. To the extent that respondent's  
7       burden of proof is not considered moot when weighed  
8       against petitioner's apparent concession of the point,  
9       we find that respondent's burden with respect to the  
10      imposition of the section 6702(a) penalty here in  
11      dispute has been satisfied. See section 6703(a).  
12      Furthermore, petitioner does not, and is not entitled  
13      to claim entitlement to a collection alternative in  
14      this proceeding, and nothing submitted by petitioner  
15      disputes respondent's evidence showing that respondent  
16      has otherwise satisfied the obligations imposed upon  
17      him by section 6330.

18               On the basis of the evidence introduced by  
19      respondent, we find that the return is a frivolous  
20      return within the meaning of section 6702(a) and that  
21      petitioner is liable for the section 6702(a) penalty  
22      here in dispute. We further find that the underlying  
23      liability has not been satisfied, and that respondent  
24      may proceed with collection as determined in the  
25      notice.

1                   To reflect the foregoing, decision will be  
2 entered for respondent.

3                   This concludes the Court's oral findings of  
4 fact and opinion in this case.

5                   (Whereupon, at 11:07 a.m., the bench opinion  
6 in the above-entitled matter was concluded.)

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